

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P. DEVADASS

W.P. No.34968 of 2015
and
M.P. No.1 of 2015

I. Mohammed Ali Khan ...Petitioner

vs.

1 The Divisional Engineer
Highways Department
Mecheri, Salem District

2 The Assistant Engineer
Highways Department
Mecheri, Salem District

3 The District Collector
Salem District, Salem

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the second respondent to consider the petitioner's representation dated 27.10.2015 under Section 28(2)(ii) of the Tamil Nadu State Highways Act, 2001.

For Petitioner : Mr. A. Esakkiappan

For Respondents : Mr. N. Sakthivel
Government Advocate

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ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the respondents. With the consent of the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus directing the respondents to consider and pass orders on the petitioner's representation dated 27 October 2015 under Section 28(2)(ii) of the Tamil Nadu State Highways Act, 2001.

3 According to the learned counsel for the petitioner, a public notice dated 20 October 2015 alleging that the petitioner has made an encroachment on the State Highway at Idapadi Road, Sangagiri/Mecheri (via) was issued. By the said notice, the petitioner has been called upon to remove the alleged encroachment before 30 October 2015. It has been further stated in the public notice that in default, the encroachment shall be removed by the Department on 02 November 2015.

4 The stand of the learned counsel for the petitioner is that on having noted the aforestated notice which was issued publicly, instead of giving individual notice, the petitioner has submitted his reply on 27 October 2015. By this writ petition, the petitioner seeks only the relief of consideration of the said representation, before taking any action for removal of encroachment, inasmuch as he has been in possession of the property in question since 1951.

5 The learned Government Advocate appearing for the respondents fairly submits that no action for removal of encroachment will be taken before examining the petitioner's aforestated representation and orders being passed thereon.

6 We have examined the facts of the case from all angles.

7 We are of the considered view that the petitioner is entitled to a notice and also an opportunity of being heard, before removal of encroachment. Since the petitioner has already made a representation, as aforestated, the authorities are required to consider the same, advertent to all the objections raised by him before passing final orders leading to a consequential action, if need be.

8 The writ petition stands disposed of with the above observation. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Divisional Engineer
Highways Department
Mecheri, Salem District
- 2 The Assistant Engineer
Highways Department
Mecheri, Salem District
- 3 The District Collector
Salem District, Salem

1 CC to Mr. A. Esakkiappan, Advocate SR.No. 59686

+ 1 CC TO THE GOVT.PLEADER, SR 60083 (5/1/16)

SKV (CO)
PSI (02.11.2015)

W.P. No.34968 of 2015

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